

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT PETITION OF KENTUCKY-AMERICAN)
WATER COMPANY, THAMES WATER AQUA)
HOLDINGS GmbH, RWE)
AKTIENGESELLSCHAFT, THAMES WATER)
AQUA US HOLDINGS, INC., APOLLO) CASE NO. 2002-00317
ACQUISITION COMPANY AND AMERICAN)
WATER WORKS COMPANY, INC. FOR)
APPROVAL OF A CHANGE OF CONTROL OF)
KENTUCKY-AMERICAN WATER COMPANY)

ORDER

Bluegrass FLOW, Inc. (Bluegrass FLOW) has moved to intervene in this matter for the purpose of advocating the proposition that local ownership [of water utilities] is more in the public interest than foreign and remote ownership. The Joint Applicants have filed a response in opposition to the motion. Having considered the motion and the response thereto, we grant the motion.

Bluegrass FLOW is a non-profit corporation organized under the laws of Kentucky. Its members include several residents of the Lexington-Fayette County area. We previously permitted Bluegrass FLOW to participate as a full intervenor in Case No. 2002-00018.¹

Bluegrass FLOW advances two arguments in support of its motion for intervention. It states that its advocacy of public ownership of water utilities establishes

¹ Case No. 2002-00018, Application for Approval of the Transfer of Control of Kentucky-American Water Company to RWE Aktiengesellschaft and Thames Water Aqua Holdings GmbH.

a special and unique interest in this proceeding that is not otherwise adequately represented. It further states that its intervention is likely to present issues or to develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Administrative Regulation 807 KAR 5:001, Section 3(8), which governs intervention in Commission proceedings, provides:

If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Bluegrass FLOW's advocacy of public ownership of water utilities does not establish a special interest in this proceeding. As we noted in Case No. 2002-00018, the question of public ownership is not generally relevant to our review of an application for transfer of control of a public utility: Kentucky-American Water Company, Case No. 2002-00018 (Ky.PSC May 30, 2002) at 8 (the Commission's focus must be upon the qualifications of the acquiring party and the potential effects of the proposed transfer). We find no evidence currently within the record of this proceeding and nothing within Bluegrass FLOW's motion to suggest that public ownership of Kentucky-American Water Company's facilities is relevant to the current proceeding.

Notwithstanding Bluegrass FLOW's lack of a special interest in this matter, we find that its intervention in this proceeding is likely to develop facts that will assist in the full consideration of the Joint Application and that it should therefore be granted full intervention in this matter. We, however, caution Bluegrass FLOW that the

public ownership of Kentucky-American Water Company's facilities is not an issue in this proceeding and that any attempt to use this proceeding as a forum for advocating a position on that issue is inappropriate and will require us to revisit our decision to permit Bluegrass FLOW's participation in this proceeding. There are other forums that are more appropriate for Bluegrass FLOW and its members who desire to voice their opinions on the issue of public ownership. These forums, not this proceeding, should be used for discussion of that issue.

IT IS THEREFORE ORDERED that:

1. Bluegrass FLOW's motion to intervene is granted.
2. Bluegrass FLOW is granted full intervention in this proceeding.
3. Bluegrass FLOW shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
4. Should Bluegrass FLOW file documents of any kind with the Commission in the course of these proceedings, Bluegrass FLOW shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 16th day of September, 2002.

By the Commission

ATTEST:


Executive Director